



**COUNCIL OF
THE EUROPEAN UNION**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken by the
European Union in the EEA Joint Committee concerning an amendment
to Annex XIII (Transport) to the EEA Agreement

COUNCIL DECISION No .../2012/EU

of

**on the position to be taken by the European Union
in the EEA Joint Committee concerning an amendment
to Annex XIII (Transport) to the EEA Agreement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area¹, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 305, 30.11.1994, p. 6.

Whereas:

- (1) Annex XIII to the Agreement on the European Economic Area¹ (the "EEA Agreement") was amended by Decision of the EEA Joint Committee No 90/2011 of 19 July 2011², by virtue of which Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community³ was incorporated into the EEA Agreement.
- (2) Through the inclusion of Regulation (EC) No 1008/2008 into the Air Transport Agreement between the European Community and the Swiss Confederation, the same regime has been established between the Union and Switzerland for Swiss and Community air carriers⁴.
- (3) Through the inclusion of Regulation (EC) No 1008/2008 into the Convention establishing the European Free Trade Association (Vaduz Convention)⁵, the same regime has also been established between Switzerland and the EEA EFTA States for Swiss and EEA EFTA air carriers.

¹ OJ L 1, 3.1.1994, p. 3.

² OJ L 262, 6.10.2011, p. 62.

³ OJ L 293, 31.10.2008, p. 3.

⁴ Decision No 1/2010 of the Joint Community/Switzerland Air Transport Committee of 7 April 2010 (OJ L106, 28.4.2010, p. 20).

⁵ Decision of the EFTA Council No 1/2012 of 22 March 2012.

- (4) Annex XIII to the EEA Agreement should therefore be amended to grant Swiss air carriers the right to operate air services from a Member State of the Union to an EEA EFTA State and vice versa.
- (5) The position of the Union in the EEA Joint Committee should be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the EEA Joint Committee on the proposed amendment to Annex XIII (Transport) to the EEA Agreement shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the Council

The President

Draft

DECISION No .../2012 OF THE EEA JOINT COMMITTEE

of

amending Annex XIII (Transport) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area ("the EEA Agreement"), and in particular Article 98 thereof,

Whereas:

- (1) Annex XIII to the EEA Agreement was amended by Decision of the EEA Joint Committee No ... of ...¹.
- (2) Annex XIII to the EEA Agreement was amended by Decision of the EEA Joint Committee No 90/2011 of 19 July 2011², which incorporates into the EEA Agreement Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast)³.
- (3) The Contracting Parties aim at ensuring that EEA EFTA air carriers are entitled to operate air services from Member States of the Union to Switzerland and vice versa.
- (4) The Contracting Parties also aim at ensuring that Community air carriers are entitled to operate air services from an EEA EFTA State to Switzerland and vice versa.
- (5) To this end, the EEA Joint Committee is to grant, subject to the condition of reciprocity, Swiss air carriers the right to operate from Member States of the Union to an EEA EFTA State and vice versa.
- (6) Annex XIII to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

¹ OJ L ...
² OJ L 262, 6.10.2011, p. 62.
³ OJ L 293, 31.10.2008, p. 3.

Article 1

Point 64a (Regulation (EC) No 1008/2008 of the European Parliament and of the Council) of Annex XIII to the EEA Agreement shall be amended as follows:

1. The current adaptation (b) shall be renumbered as adaptation (c).
2. The following adaptation shall be inserted after adaptation (a):

"(b) The following paragraph shall be added in Article 15:

"6. Under the same conditions as Community and EEA EFTA air carriers, Swiss air carriers shall be entitled to operate air services from Member States of the European Union to EEA EFTA States and vice versa. This shall be subject to the condition that, on the one hand, the Community and Switzerland grant EEA EFTA air carriers the right to operate air services from Member States of the European Union to Switzerland and vice versa, and, on the other hand, that Switzerland and the EEA EFTA States grant Community air carriers the right to operate air services from Switzerland to EEA EFTA States and vice versa.

Any restrictions on this arrangement arising from existing bilateral or multilateral agreements binding the Community, on the one hand, and the EEA EFTA States, on the other hand, are hereby superseded."."

Article 2

This Decision shall enter into force on ..., provided that all the notifications under Article 103(1) of the EEA Agreement have been made to the EEA Joint Committee*, or on the date of entry into force of the agreement between the European Union and Switzerland granting EEA EFTA air carriers the right to operate air services from Member States of the European Union to Switzerland and vice versa, on the one hand, or of the agreement between the EEA EFTA States and Switzerland granting Community air carriers the right to operate air services from Switzerland to EEA EFTA States and vice versa, on the other hand, whichever is the latest.

Article 3

The President of the EEA Joint Committee shall notify Switzerland of the adoption of this Decision and of the last notification to the EEA Joint Committee under Article 103(1) of the EEA Agreement, if any.

* [No constitutional requirements indicated.] [Constitutional requirements indicated.]

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels,

For the EEA Joint Committee

The President

The Secretaries

to the EEA Joint Committee
